

SENATE, No. 2714

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 22, 2020

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

SYNOPSIS

Authorizes special occasion events at certain farms on preserved farmland, under certain conditions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/28/2020)

1 AN ACT concerning special occasion events on preserved farmland
2 and supplementing Title 4 of the Revised Statutes.

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. As used in this act:

8 "Board" means a county agriculture development board
9 established pursuant to section 7 of P.L.1983, c.32 (C.4:1C-14).

10 "Commercial farm" means the same as that term is defined in
11 section 3 of P.L.1983, c.31 (C.4:1C-3).

12 "Committee" means the State Agriculture Development
13 Committee established pursuant to section 4 of P.L.1983, c.31
14 (C.4:1C-4).

15 "Grantee" means the entity to which the development rights of a
16 preserved farm were conveyed pursuant to the provisions of section
17 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4
18 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of
19 P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of
20 P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any other
21 State law enacted for farmland preservation purposes. "Grantee"
22 shall include all entities which lawfully succeed to the rights and
23 responsibilities of a grantee, including, but not limited to, the
24 grantee's successors and assigns.

25 "Occupied area" means any area supporting the activities and
26 infrastructure associated with a special occasion event including,
27 but not limited to: an area for parking, vendors, tables, equipment,
28 infrastructure, or sanitary facilities; an existing building; or a
29 temporary or portable structure.

30 "Preserved farmland" means the same as that term is defined in
31 section 1 of P.L.2014, c.16 (C.4:1C-32.7).

32 "Special occasion event" means a wedding, lifetime milestone
33 event, or other cultural or social event conducted, in whole or in
34 part, on preserved farmland on a commercial farm. "Special
35 occasion event" shall not include:

36 (1) an activity which is eligible to receive right to farm benefits
37 pursuant to the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et
38 seq.);

39 (2) a recreational use permitted pursuant to a farmland
40 preservation deed of easement; or

41 (3) a wedding held for:

42 (a) a spouse, parent, child, grandparent, grandchild, sibling,
43 niece, nephew, or cousin of the landowner of the commercial farm;
44 or

45 (b) the operator or an employee of the commercial farm.

46
47 2. a. Notwithstanding any law, or any rule or regulation
48 adopted pursuant thereto, to the contrary, a person shall not hold a

1 special occasion event on preserved farmland without first
2 obtaining approval therefor from the grantee pursuant to section 3
3 of this act, and shall hold the special occasion event in compliance
4 with the requirements of this section and the rules and regulations
5 adopted by the committee pursuant to section 6 of this act..

6 b. The owner or operator of a commercial farm located on
7 preserved farmland that produces agricultural or horticultural
8 products worth \$10,000 or more annually may hold special occasion
9 events on the farm. The special occasion event shall comply with
10 the following requirements:

11 (1) A special occasion event shall have a maximum duration of
12 two consecutive calendar days.

13 (2) A special occasion event shall not interfere with the use of
14 the preserved farmland for agricultural or horticultural production.
15 The special occasion event shall have minimal effects on the
16 occupied area, and shall be designed to protect the agricultural
17 resources of the land and ensure that the land can be readily
18 returned to productive agricultural or horticultural use after the
19 event.

20 (3) A special occasion event that involves the service of
21 alcoholic beverages shall comply with all applicable State and local
22 laws, regulations, resolutions, and ordinances.

23 (4) All applicable State and local laws, regulations, resolutions,
24 and ordinances including, but not limited to, those concerning food
25 safety, litter, noise, solid waste, traffic, and the protection of public
26 health and safety shall apply to the special occasion event and all
27 activities related thereto.

28 (5) A special occasion event shall not cause a significant and
29 direct negative impact to any surrounding properties.

30 (6) No new structures shall be constructed or erected on
31 preserved farmland for the purpose of holding a special occasion
32 event, and improvements to existing structures shall be limited to
33 the minimum required for the protection of public health and safety;

34 (7) No structure constructed fewer than five years prior to the
35 date of an application pursuant to section 3 of this act to hold a
36 special occasion event shall be used for the purpose of holding the
37 special occasion event.

38 (8) No public utilities including, but not limited to, water, gas,
39 or sewer lines shall be extended to the preserved farmland for the
40 purpose of holding special occasion events.

41 (9) The occupied area associated with a special occasion event
42 shall be limited to the greater of:

43 (a) two and one-half acres, or

44 (b) five percent of the preserved farmland, up to a maximum of
45 five acres.

46 (10) Any temporary structures, including an enclosed or open
47 canopy or tent or other portable structure or facility, utilized for a
48 special occasion event shall be erected only for the minimum

1 amount of time reasonably necessary to accommodate the special
2 occasion event.

3 (11) Parking at a special occasion event shall be provided
4 through the use of existing parking areas on the farm and curtilage
5 surrounding existing buildings to the extent possible. Additional
6 on-site areas required to provide temporary parking shall comply
7 with the standards for on-farm direct marketing facilities, activities,
8 and events adopted by the committee pursuant to P.L.1983, c.31
9 (C.4:1C-1 et seq.).

10 c. (1) A special occasion event shall be conducted on a Friday,
11 Saturday, Sunday, or federal or State holiday, except that a special
12 occasion event may be conducted on another day with the approval
13 of the committee. The committee may delegate this authority to a
14 grantee.

15 (2) No commercial farm shall hold more than one special
16 occasion event per calendar day.

17 (3) A commercial farm that produces agricultural or
18 horticultural products worth between \$10,000 and \$100,000
19 annually may hold up to a maximum of 15 special occasion events
20 per calendar year, of which two may have 250 guests or more in
21 attendance at any time during the event.

22 (4) A commercial farm that produces agricultural or
23 horticultural products worth \$100,000 or more annually may hold
24 up to a maximum of 26 special occasion events per calendar year,
25 of which six may have 250 guests or more in attendance at any time
26 during the event.

27 d. A retail food establishment other than a temporary retail
28 food establishment, as those terms are defined in the State Sanitary
29 Code adopted pursuant to section 7 of P.L.1947, c.177 (C.26:1A-7),
30 shall not operate on a commercial farm in support of a special
31 occasion event.

32 e. Notwithstanding any law, or any rule or regulation adopted
33 pursuant thereto, to the contrary, a special occasion event during
34 which fewer than 250 people will be in attendance as guests at any
35 time may be held without a variance or site plan approval.

36

37 3. a. No person shall hold a special occasion event on
38 preserved farmland pursuant to this act unless the owner or operator
39 of the commercial farm applies to the grantee for approval pursuant
40 to this section. A grantee whose approval is required for a special
41 occasion event to be held on preserved farmland shall develop an
42 application process by which an owner or operator of a commercial
43 farm located on preserved farmland may apply for approval. The
44 application shall, at a minimum, allow the grantee to determine:

45 (1) the annual value of agricultural or horticultural products
46 produced by the commercial farm;

47 (2) the number of special occasion events held on the
48 commercial farm during the calendar year;

1 (3) the maximum attendance of the special occasion event;
2 (4) the acreage of the occupied area, as delineated on a map or
3 aerial photograph, to be used for the special occasion event; and

4 (5) whether the farm is in compliance with its farmland
5 preservation deed of easement;

6 b. Upon request of the grantee, the owner or operator of the
7 commercial farm shall provide evidence that a proposed special
8 occasion event on preserved farmland will be in compliance with
9 State and local laws as required in paragraphs (3) and (4) of
10 subsection b. of section 2 of this act. The grantee may condition its
11 approval upon receipt of evidence from the municipality, county, or
12 applicable State agency that the event will comply with the
13 provisions of paragraphs (3) and (4) of subsection b. of section 2 of
14 this act.

15 c. The grantee may approve an application made pursuant to
16 this section upon a finding that the special occasion events on the
17 preserved farmland that are the subject of the application are in
18 compliance with the requirements of this act and any rules and
19 regulations adopted by the committee to implement this act.

20 d. An applicant shall annually certify to the grantee, in a form
21 and manner to be prescribed by the grantee, information about the
22 special occasion events held in the prior calendar year that were
23 approved pursuant to this section, including, but not limited to, the
24 date, occasion, and approximate number of attendees of each event.
25 The grantee shall forward a copy of the certification to the
26 committee and the applicable board.

27
28 4. a. The committee and the appropriate board have the right,
29 without advance notice, to inspect a preserved farm that has
30 received approval from the grantee to hold one or more special
31 occasion events, upon presentation of appropriate credentials during
32 normal business hours, in order to determine compliance with the
33 provisions of this act.

34 b. The committee or the appropriate board may, upon
35 reasonable cause, order and specify the scope of an audit of the
36 owner or operator of a commercial farm engaged in conducting
37 special occasion events on preserved farmland for the purpose of
38 determining compliance with this act. The audit shall be conducted
39 by an independent certified public accountant approved by the
40 board or the committee, and the reasonable costs thereof shall be
41 paid by the owner or operator of the commercial farm. A county
42 agriculture development board, or the committee, may establish a
43 list of independent certified public accountants approved for the
44 purposes of conducting an audit pursuant to this paragraph. Copies
45 of the audit shall be submitted to the applicable board, the
46 committee, and the owner or operator of the commercial farm.

1 c. An owner or operator of a commercial farm engaged in
2 conducting special occasion events on preserved farmland shall not
3 be subjected to an audit authorized pursuant to this section more
4 than once per year without good cause demonstrated by the
5 applicable board or the committee.

6
7 5. a. An owner or operator of a commercial farm who violates
8 the provisions of this act shall be liable to a civil administrative
9 penalty of up to \$2,500 for the first offense, up to \$10,000 for the
10 second offense, or up to \$25,000 for a third and subsequent offense.
11 Each day in which a violation occurs shall be considered a separate
12 offense.

13 b. In addition to the penalties established pursuant to
14 subsection a. of this section:

15 (1) for a second offense, the committee shall suspend the owner
16 or operator of the commercial farm from holding special occasion
17 events for a period of up to six months;

18 (2) for a third offense, the committee shall suspend the owner or
19 operator of the commercial farm from holding special occasion
20 events for a period of six months up to one year; and

21 (3) for a fourth or subsequent offense, the committee shall
22 suspend the owner or operator of the commercial farm from holding
23 special occasion events for a period of at least one year, or may
24 permanently suspend the owner or operator of the commercial farm
25 from holding special occasion events.

26 c. No civil administrative penalty or penalty established in
27 subsection b. of this section shall be imposed pursuant to this
28 section until after the owner or operator has been notified of the
29 alleged violation by certified mail or personal service. The notice
30 shall include:

31 (1) a reference to the section of the statute, regulation, order or
32 permit condition alleged to have been violated;

33 (2) a concise statement of the facts alleged to constitute a
34 violation;

35 (3) a statement of the amount of the civil administrative penalty
36 that may be imposed and the duration of the suspension that may be
37 imposed, if any; and

38 (4) a statement of the right of the owner or operator to a hearing.

39 The owner or operator served with the notice shall have 20 days
40 after the receipt of the notice to request in writing a hearing before
41 the committee. After the hearing, if the committee finds that a
42 violation has occurred, the committee may issue a final order
43 assessing the amount of the civil administrative penalty set forth in
44 the notice and imposing the suspension, if any. If no hearing is
45 requested, then the notice shall become a final order 20 days after
46 the date upon which the notice was served. Payment of the civil
47 administrative penalty shall be due, and duration of the suspension,

1 if any, shall begin, on the date when a final order is issued or the
2 notice becomes a final order.

3 d. The committee shall notify, in writing, the appropriate board
4 and the applicable grantee when it suspends an owner or operator of
5 a commercial farm from holding special occasion events pursuant to
6 subsection b. of this section.

7
8 6. The committee shall adopt, pursuant to the “Administrative
9 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
10 regulations to implement this act, including any rules and
11 regulations necessary to determine compliance with the
12 requirements of section 2 of this act.

13
14 7. a. The committee shall prepare a report annually on the
15 implementation of this act, and shall submit the report to the
16 Governor, and to the Legislature pursuant to section 2 of
17 P.L.1991, c.164 (C.52:14-19.1).

18 b. The report shall include:

19 (1) the number of preserved farms for which approvals to hold
20 special occasion events have been issued by grantees;

21 (2) the frequency, type, and size of special occasion events held;

22 (3) the extent to which municipalities and county agriculture
23 development boards report problems associated with the holding of
24 special occasion events;

25 (4) the number of audits that have been conducted pursuant to
26 section 4 of this act; and

27 (5) an accounting of penalties collected pursuant to section 5 of
28 this act.

29
30 8. This act shall take effect immediately.

31
32
33 STATEMENT

34
35 This bill would authorize commercial farms that are located on
36 preserved farmland, and that produce agricultural or horticultural
37 products worth \$10,000 or more annually, to hold special occasion
38 events, subject to certain conditions.

39 The bill would establish various restrictions on the special
40 occasion events. For example, under section 2 of the bill, a special
41 occasion event: (1) may not interfere with the use of the preserved
42 farmland for agricultural or horticultural production; (2) may not
43 cause a significant and direct negative impact to any surrounding
44 properties; (3) must be designed to protect the agricultural resources
45 of the land and ensure that the land can be readily returned to
46 productive agricultural or horticultural use after the event; (4) may
47 not violate any applicable State and local laws, regulations,
48 resolutions, and ordinances including those concerning alcohol,

1 food safety, litter, noise, solid waste, traffic, and the protection of
2 public health and safety; and (5) may not involve the construction
3 of any new structures or utilities on the preserved farmland.

4 Under the bill, a farm that produces agricultural or horticultural
5 products worth between \$10,000 and \$100,000 annually may hold
6 up to a maximum of 15 special occasion events per calendar year,
7 of which two may have 250 guests or more in attendance. A farm
8 that produces agricultural or horticultural products worth \$100,000
9 or more annually may hold up to a maximum of 26 special occasion
10 events per calendar year, of which six may have 250 guests or more
11 in attendance.

12 The bill would require the owner or operator of the commercial
13 farm to apply to the grantee of the farm, i.e. the entity to which the
14 development rights of the farm have been transferred, for approval
15 prior to holding a special occasion event. The bill directs grantees
16 to develop an application process for this purpose. Furthermore, the
17 bill imposes certain minimum requirements on this application. For
18 example, it requires the application to allow the grantee to
19 determine the value of agricultural goods produced by the farm, the
20 number of special occasion events already held on the farm that
21 year, and the area of the preserved farmland to be used for the
22 special occasion event.

23 The bill would also allow the State Agriculture Development
24 Committee (SADC) and the appropriate county agriculture
25 development board (CADB) to inspect a commercial farm that has
26 received approval for a special occasion event, without prior notice,
27 in order to verify that it is in compliance with the bill's provisions.
28 In addition, the bill would allow the SADC or the CADB, upon
29 reasonable cause, to audit a farm to verify that it is in compliance
30 with the bill's provisions.

31 Under the bill, an owner or operator of a commercial farm who
32 violates the bill's provisions would be subject to a civil
33 administrative penalty of up to \$2,500 for the first offense, up to
34 \$10,000 for the second offense, or up to \$25,000 for a third and
35 subsequent offense. In addition, an owner or operator who
36 repeatedly violates the bill's provisions would be prohibited from
37 holding special occasion events on the preserved farm for a period
38 of time that increases along with the number of violations.

39 Finally, the bill would require the SADC to submit an annual
40 report to the Governor and the Legislature that includes the number
41 of special occasion events held that year, the number of audits
42 conducted, the amount of penalties collected, and a description of
43 any problems reported by municipalities and county agriculture
44 development boards associated with the holding of special occasion
45 events. The bill would require the SADC to adopt rules and
46 regulations to implement the provisions of the bill.